

Applicants: Jason D. Bannan and John E. Zabriskie
U.S. Serial No.: 09/335,581
Filed: June 18, 1999
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Remarks

Claims 50-55 are pending in the subject application. By this Amendment, applicants have amended claim 50, and canceled claim 51-55 without prejudice or disclaimer to applicants' right to pursue the subject matter of these claims in the future. Applicants maintain that the amendments to the claims raise no issue of new matter and are fully supported by the specification as filed. Support for the amendments to claim 50 may be found, *inter alia*, in the specification, as originally filed, on page 17, line 28 to page 18, line 11; page 24, lines 18-20; and page 10, lines 22-23. Support for new claims 56-62 can be found in the specification as originally filed at, *inter alia*, at page 21, lines 20-29. Support for new claim 63 can be found in the specification as originally filed at, *inter alia*, page 21, lines 20-29, and originally filed claim 3. Accordingly, applicants respectfully request entry of this Amendment. Upon entry of this Amendment, claims 50 and 56-63 will be pending and under examination.

Drawings

In the November 18, 2003 Office Action, the Examiner stated that Figure 3 refers to sequences without sequence identifying numbers being described within the figure itself or the brief description of the drawings within the specification.

In response, applicants have hereinabove amended the brief description of Figure 3 to refer to appropriate sequence identifiers.

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Claim Objections

The Examiner stated that claims 51-54 are objected to under 37 C.F.R. §1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. The Examiner further stated that all of the claims are drawn to a non-toxic, purified peptide consisting essentially of an amino acid sequence selected from the group consisting of SEQ ID NO:34.

In response, applicants respectfully traverse the Examiner's rejection. However, in order to expedite prosecution, but without conceding the correctness of the Examiner's position, applicants have hereinabove canceled claims 51-54.

Claims Rejected under 35 U.S.C. §112 (Written Description)

The Examiner stated that the new matter rejection of claims 50-55 under 35 U.S.C. §112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention, is maintained in view of applicants' amendments. The Examiner further stated that applicants have amended the specification and claims to include the proviso that the peptide, SEQ ID NO:34 is not Staphylococcal enterotoxin B (SEB) or Staphylococcal enterotoxin C (SEC) or other native toxin. The Examiner also alleged that neither the specification nor originally presented claims provides support for the SEQ ID NO:34 peptide not being Staphylococcal enterotoxin B (SEB) or Staphylococcal enterotoxin C (SEC) or other native toxin, and furthermore, there is no support in the specification that teaches a peptide consisting of the amino acid sequence SEQ

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ID NO:34.

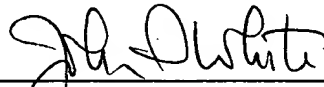
In response, applicants respectfully traverse the Examiner's rejection. However, in order to expedite prosecution, but without conceding the correctness of the Examiner's position, applicants have hereinabove amended claim 50, and canceled claims 51-55 without prejudice. Specifically, applicants have removed the rejected proviso from claim 50. In addition, applicants note that support for the claimed peptide $X_{25}X_{26}YGGX_1TX_2X_3X_4X_5N$ (SEQ ID NO:28) is given in the specification, as detailed by applicants hereinabove. In addition, applicants have added new claims 56-63, specifying wherein X_1 is V, X_2 is L, X_3 is H, X_4 is E, X_5 is G, X_{25} is C, and X_{26} is M, as recited in originally filed claim 3 and page 21, lines 20-29. Accordingly, in light of the arguments and amendments presented hereinabove, applicants respectfully request that the Examiner reconsider and withdraw this ground of rejection.

If a telephone interview would be of assistance in advancing prosecution of the subject application, applicants' undersigned attorney invites the Examiner to telephone him at the number provided below.

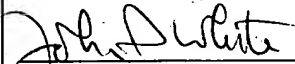
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No fee, apart from the enclosed \$950.00 fee for a three month extension of time, is deemed necessary in connection with the filing of this Amendment. However, if any fee is required, authorization is hereby given to charge the amount of any such fee to Deposit Account No. 03-3125.

Respectfully submitted,



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I hereby certify that this correspondence is being deposited this date with the U.S. Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450	
	5/8/04
John P. White	Date
Registration No. 28,678	